

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, for the
use and benefit of NATIONAL
DEVELOPMENT AND CONSTRUCTION
CORP.,

Plaintiff,

-against-

UNITED STATES ENVIRONMENTAL
UNIVERSAL SERVICES, INC., PALONIA
DEVELOPMENT & PRESERVATION
SERVICES CO., LLC and FIRST
SEALORD SURETY, INC.,

Defendants.

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TO THE HONORABLE CATHY SEIBEL, United States District Judge:

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**REPORT AND
RECOMMENDATION**

11 Civ. 730 (CS) (GAY)

By Memo Endorsed Order dated September 24, 2012, the undersigned granted leave to Dreifuss Bonacci & Parker, P.C. to withdraw as counsel for defendant United States Environmental Universal Services, Inc. ("USEUS"), and directed defendant USEUS to obtain replacement counsel by October 24, 2012.

As of January 15, 2013, USEUS had not obtained counsel. Thus, the undersigned issued an Order to Show Cause wherein the Court (1) cited *Lattanzio v. COMTA*, 481 F.3d 137, 139-40 (2d Cir. 2007) for the proposition that USEUS may not appear *pro se*; (2) reminded USEUS of its duty to diligently prosecute its cross-claim under Rule 41(b) of the Federal Rules of Civil Procedure; and (3) allowed USEUS until February 15, 2013 to either obtain new counsel (whose appearance must be entered by February 15, 2013) or show cause why the undersigned should not recommend that USEUS' cross-claim be dismissed.

To date, new counsel has not appeared for USEUS. Accordingly, I respectfully recommend that USEUS' cross-claim be dismissed, with prejudice, for failure to prosecute.

NOTICE

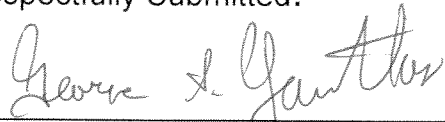
Pursuant to 28 U.S.C. § 636(b)(1), as amended, the parties shall have fourteen (14) days from receipt of this Report to serve and file written objections to this Report and Recommendation. If copies of this Report are served upon the parties by mail, the parties shall have seventeen (17) days from receipt of this Report to file and serve written objections. See Fed. R. Civ. P. 6(d). Such objections, if any, shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of The Honorable Cathy Seibel at the United States District Court, Southern District of New York, 300 Quarropas Street, White Plains, New York, 10601, and to the chambers of the undersigned at said Courthouse.

Failure to file timely objections to this Report and Recommendation will preclude later appellate review of any order of judgment that will be entered. See Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008).

Requests for extensions of time to file objections must be made to the Honorable Cathy Seibel and not to the undersigned.

Dated: April 22, 2013
White Plains, New York

Respectfully Submitted:



GEORGE A. YANTHIS, U.S.M.J.